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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,182	12/02/2003	Brian W. Brandner	2681.3184.001 (588AW)	2575
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EXAMINER				
BRADEN, SHAWN M				
ART UNIT		PAPER NUMBER		
3781				
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11/29/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/726,182

Applicant(s)

BRANDNER ET AL.

Examiner

Shawn M. Braden

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-12 and 22-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-12 and 22-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/30/2007 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. It is unclear if applicant is attempting to make a product by process claim with the method of making included in claims 9,12 but it also appears applicant is claiming an apparatus in the in depended claims. For examination purposes the examiner will assume applicant intends on pursuing a patent on the apparatus and the method steps of welding parts together will be ignored. Examiner will assume any connection means will meet the recitation of "welded".

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 23,24,26,27 are rejected under 35 U.S.C. 102(b) as being anticipated by Potter (2002/0063129).
6. With respect to claim 23, Potter shows a shell (10) of a first polymeric material (50) defining an interior for holding fuel and having an opening for receiving fuel into the interior and a vapor barrier layer (51) of a second polymeric material different than the first polymeric material , a separate fill nipple (42) having an outer surface and an inner surface defining a passage extending between a pair of generally opposed ends of the fill nipple with one open end at least partially overlapped with and attached to the shell with the passage aligned with the opening through the shell for allowing fuel to flow through the passage and into the shell , the fill nipple has an inner layer of a polymeric material (48 inner layer clearly shown in fig. 7) forming the inner surface of the fill nipple, an outer layer of polymeric material (outer layer of 48 clearly shown in fig. 7 see also fig. 1 for further clarification of layers) forming the outer surface of the fill nipple, and a vapor barrier layer (51 fig. 7) between the inner and outer layers and of a polymeric material different than the polymeric material of the inner and outer layers of the fill nipple, wherein the vapor barrier layer overlies the shell vapor barrier layer along the entire extent of the overlap of the fill nipple and shell providing at least two vapor barrier layers along the entire extent of the overlap of the fill nipple (fig 6) and shell and the first polymeric material of the shell and an adjacent layer of the fill nipple are of the

same polymeric material and are welded together circumferentially continuously around the opening of the shell.

7. With respect to claim 24, Potter shows the end of the fill nipple not attached to the shell is constructed and arranged to carry at least a portion of two separate fuel system components (figs. 1-3).

8. With respect to claim 25, Potter shows one end includes a radially inwardly extending flange (top flange in fig. 6) and said another end includes a radially outwardly extending flange (bottom flange in fig. 6).

9. With respect to claim 26, Potter shows a shell (10) defining an interior for holding fuel and having an opening for receiving fuel into the interior, a separate fill nipple (42) having an outer surface and an inner surface defining a passage extending between a pair of generally opposed open ends (top and bottom) of the fill nipple with one end circumferentially continuously attached to the shell with the passage aligned with the opening for allowing fuel to flow through the passage and into the interior of the shell the fill nipple has an inner layer of material (inner 48 fig. 7 see also fig. 1) forming the inner surface of the fill nipple, an outer layer of material forming the outer surface (outer 48 fig. 7) of the fill nipple, a vapor barrier layer (51 fig. 7) of a polymeric material between the inner and outer layers, and a pair of adhesive layers (see fig. 1 that shows how the layered material on a more expanded view) (examiner also notes fig. 1 shows how typical fuel tank material is laid out) with one adhesive layer disposed between the outer layer and the vapor barrier layer and the other adhesive layer disposed between the inner layer and the vapor barrier layer; and a separate cover (the unmarked layer in fig.

7) (also shown in fig. 6 as element 22) connected to the shell and the fill nipple and spanning the area of attachment of the fill nipple to the shell.

10. With respect to claim 27, Potter shows a shell (10) defining an interior for holding fuel and having an opening (16) for receiving fuel into the interior and a vapor barrier layer (51 next to element 50) of a polymeric material, a separate fill nipple (42) having an outer surface and an inner surface defining a passage extending between a pair of generally opposed open ends (fig. 6) of the fill nipple with one end at least partially overlapped (clearly shown in fig. 6) with and attached to the shell with the passage aligned with the opening allowing fuel to flow through the passage and into the interior of the shell, the fill nipple has an inner layer of material forming the inner surface of the fill nipple, an outer layer of material forming the outer surface of the fill nipple, and a vapor barrier layer (51) of a polymeric material between the inner and outer layers, wherein the vapor barrier layer overlies the fuel tank vapor barrier layer along the entire extent of the overlap of the fill nipple and shell providing two vapor barrier layers along the entire extent of the overlap of the fill nipple and shell (clearly shown in fig. 6).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-12,22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Potter as applied above in view of Sadr (USPN 6,467,643).

Potter as applied above to claims 23,24,26,27 discloses the invention substantially as claimed. However Potter does not disclose a separate cover with an inner layer of a polymeric material welded connected to the shell and the fill nipple and spanning the area of attachment of the fill nipple to the shell and with a vapor barrier layer of a polymeric material different than the polymeric material of the inner layer of the cover.

Sadr teaches a separate cover (140 fig. 9) with an inner layer of a polymeric material welded connected to the shell and the fill nipple and spanning the area of attachment of the fill nipple to the shell and with a vapor barrier layer (EVOH col 5 line 1) of a polymeric material different than the polymeric material of the inner layer of the cover (material reference column 6 line 33) in the same field of endeavor for the purpose of adding another layer of protection.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add another protective cover to the container of Potter as taught by Sadr order to further protect from vapors from leaking out from the seam of the tank and the nipple.

### ***Response to Arguments***

12. Applicant's arguments with respect to claim 9-12, 22-25 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn M. Braden whose telephone number is (571)272-8026. The examiner can normally be reached on Mon-Friday 9-6:30 est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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